



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1096]

Certain Microperforated Packaging Containing Fresh Produce

Commission Determination Not to Review an Initial Determination Granting a Motion to Terminate the Investigation as to Respondent Apio, Inc. Based On A Settlement And License Agreement; Termination of the Investigation In Its Entirety

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 19) of the presiding administrative law judge (“ALJ”), granting complainant’s motion to terminate the investigation as to respondent Apio, Inc. (“Apio”) of Guadalupe, California, based on a settlement and license agreement. As Apio is the last respondent, the investigation is terminated in its entirety.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2392. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 22, 2018, based on a complaint filed on behalf of Windham Packaging, LLC (“Windham”) of Windham, New Hampshire. 83 FR 3020 (Jan. 22, 2018). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by reason of infringement of claims 1-6, 11, and 13 of U.S. Patent No. 7,083,837. 83 FR 4269 (Jan. 30, 2018). The complaint further alleges that a domestic industry exists. The Commission’s notice of investigation named as respondents Alpine Fresh, Inc. (“Alpine Fresh”) of Miami, Florida; B&G Foods North America, Inc. (“B&G Foods”) of Parsippany, New Jersey; Taylor Farms California, Inc. (“Taylor Farms”) of Salinas, California; Apio; and Glory Foods, Inc. (“Glory Foods”) of Columbus, Ohio. The Office of Unfair Import Investigations is not participating in the investigation.

Respondents B&G Foods, Taylor Farms, Alpine Fresh, and Glory Foods have been terminated from the investigation under Commission Rule 210.21(a)(1). *See* Order No. 9 (Feb. 21, 2018); Comm’n Notice (Mar. 15, 2018); Order No. 16 (Mar. 13, 2018); Comm’n Notice (Mar. 26, 2018); Order No. 17 (Mar. 27, 2018); Comm’n Notice (Apr. 25, 2018).

On April 9, 2018, Windham filed a motion to terminate the investigation as to the last remaining respondent Apio based on a settlement and license agreement. Order No. 19 at 1 (Apr. 20, 2018). On April 20, 2018, the ALJ issued the subject ID granting the motion. *Id.* at 2. The ALJ found that the motion complies with the Commission Rules, and that no public interest factors prohibit the termination of this investigation. *Id.* No petitions for review were filed.

The Commission has determined not to review the ID. The investigation is terminated in its entirety.

The authority for the Commission’s determination is contained in section 337 of the

Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: May 11, 2018.
Lisa Barton,
Secretary to the Commission.

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